



Costs Decision

Site visit made on 11 November 2019

by J M Tweddle BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2019

Costs application in relation to Appeal Ref: APP/G5180/W/19/3235855 Land adjacent to Little Lillys, Chelsfield Lane, Orpington BR6 6EP

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by the Council of the London Borough of Bromley for a partial award of costs against Mr Matt Ellis.
 - The appeal was against the refusal of planning permission for the erection of a single storey detached dwelling on land adjacent to Chelsfield Lane.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Council alleges that the appellant has unreasonably sought to pursue an argument that the appeal scheme would not be inappropriate development in the Green Belt, despite a previous Inspector concluding otherwise. In doing so the Council considers that the appeal scheme was the same or a very similar development on the same or substantially the same site that was previously dismissed at appeal¹ with no subsequent change in circumstances. Furthermore, they consider that the appellant has advanced similar arguments in support of the proposal that were dismissed by the previous Inspector.
4. The PPG states that the right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal has no reasonable prospect of succeeding. The PPG goes on to advise that this may occur when the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.
5. It can be seen from my decision that I have found the previous appeal proposal and its site to differ substantially from this appeal scheme. The site in the previous appeal equated to approximately a third of the field to the rear of

¹ Appeal Ref. APP/G5180/W/16/3166005

Little Lillys and involved a traditional style two storey dwelling fronting onto Warren Road. The current appeal involves the entire field and proposes a contemporary flat roofed building positioned with a frontage onto Chelsfield Lane. Whilst the previous site forms part of the current appeal site, this amounts to a materially different area of land and a different form of development that has not previously been tested at appeal.

6. While some of the arguments and evidence put forward by the appellant to justify development in the Green Belt may be similar, given that it relates to a different development and site, I do not consider this to be unreasonable.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

Jeff Tweddle

INSPECTOR